

Respectfully submitted,

**SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, P.C.**

By: s/ Emily A. Quillen

John W. Greene 08391520

Emily A. Quillen 24045624

801 Cherry Street, Suite 1075
Fort Worth, Texas 76102
Tel: (817) 869-1700
Fax: (817) 878-9472

ATTORNEYS FOR DEFENDANTS
JOHN W. KIRK, JR. AND NATIONAL
DISTRIBUTORS LEASING, INC.

CERTIFICATE OF SERVICE

On January 2, 2014, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record listed below electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

Gene S. Hagood
The Law Offices of Gene S. Hagood
1520 E. Highway 6
Alvin, TX 77511
Facsimile: (281) 331-1105

s/ Emily A. Quillen
Emily A. Quillen

NO. 2013CV00190704

ZAIRA CORONELE

VS.

JOHN W. KIRK, JR.; NATIONAL
DISTRIBUTORS LEASING, INC.; AND
EVILSIZOR TRANSPORTATION
SERVICES, L.L.C.

§
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§

IN THE DISTRICT COURT OF

WEBB COUNTY, TEXAS

406TH JUDICIAL DISTRICT

DEPUTY

FILED

2013 NOV 14 PM 3:38

ESTHER DEBELLADO
CLERK OF THE DIST. COURTS
& COUNTY COURTS AT LAW

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Zaira Coronele, hereinafter referred to as Plaintiff, complaining of John W. Kirk, Jr. and National Distributors Leasing, Inc. and Evilsizor Transportation Services, L.L.C., hereinafter referred to as Defendants, and for cause of action your Plaintiff would respectfully show and represent unto the Court and Jury as follows:

I.

Discovery is intended to be conducted under Level 3, Texas Rules of Civil Procedure, 190.4.

II.

Plaintiff is a resident citizen of Webb County, Texas.

Defendant, John W. Kirk, Jr., is a nonresident of the State of Texas and was involved in a collision while operating a motor vehicle in the State of Texas. Per the Texas Long-Arm Jurisdiction over nonresident Motor Vehicle Operator found in V.T.C.A., Civil Practice & Remedies Code, Chapter 17, Subchapter D § 17.061, 17.062, 17.063 and 17.064, the Chairman of the Texas Transportation Commission is an agent for service of process on Defendant, John W. Kirk, Jr. Furthermore, the cause of action alleged herein arises out of acts and omissions of John W. Kirk, Jr. occurring in the



State of Texas. John W. Kirk, Jr. may be served with service of process by serving The Chairman of the Texas Transportation Commission., Ted Houghton, 125 E. 11th Street, Austin, Texas 78701-2483. The Chairman of the Texas Transportation Commission shall mail to the nonresident a copy of the process and notice that the process has been served on the Chairman by registered mail, or by certified mail, return receipt requested, with postage prepaid, to John W. Kirk, Jr. at 95 Hickman Ford Road, Louisa, Kentucky 41230.

The Defendant, National Distributors Leasing, Inc., is a foreign corporation organized under the laws of Indiana and doing business in the State of Indiana and does not maintain a regular place of business or a designated agent for service or process in Texas. National Distributors Leasing, Inc. has sufficient contacts with Texas that such acts constitute doing business in Texas that, under the Texas Long-Arm Statute, found in V.T.C.A., Civil Practice & Remedies Code Chapter 17 §§ 17.041, 17.042, 17.044 and 17.045, it may be served with service of process by serving the Texas Secretary of State, Statutory Documents Section Citations Unit, 1019 Brazos Street, Room 220, Austin, Travis County, Texas 78701. National Distributors Leasing, Inc.'s home office is 1517 Avco Boulevard, Sellersburg, Indiana 47172.

The Defendant, Evilsizor Transportation Services, L.L.C., is a foreign corporation organized under the laws of Colorado and authorized to conduct business in the State of Texas and may be served by serving its Process Agent, Kim Cousins, Hawk Fuel Tax Services, 4360 Western Center Boulevard #103, Fort Worth, Texas 76137.

III.

At the time this cause of action occurred, Plaintiff was a resident citizen of Webb County, Texas, and Defendant, John W. Kirk, Jr. was a resident citizen of Lawrence County, Kentucky. Defendants, National Distributors Leasing, Inc. and Evilsizor Transportation Services, L.L.C., maintained a place of business in Laredo, Webb County, Texas and the negligent acts/omissions causing the collision in question and the collision occurred in Webb County, Texas. This Court has venue of this case because all or a substantial portion of the acts or events giving rise to the cause of action and the acts and/or omissions of negligence that proximately caused the occurrence in question and the injuries and damages sustained by your Plaintiff occurred within the territorial limits of Webb County, State of Texas.

IV.

It has become necessary to file this lawsuit as a result of a motor vehicle collision which occurred on or about the 27th day of April, 2012. Plaintiff, Zaira Coronel, was driving a 2002 Chevrolet Suburban in a westerly direction on Guadalupe Street in Laredo, Webb County, Texas, when struck from behind by a 2005 International 9400i Truck being driven by Defendant, John W. Kirk, Jr., causing the collision and Plaintiff's injuries and damages.

National Distributors Leasing, Inc. and/or Evilsizor Transportation Services, L.L.C., are thought to be the owner of the vehicle John W. Kirk, Jr. was driving at the time and on the occasion in question. Defendant, John W. Kirk, Jr. was in the course and scope and in the furtherance of the business affairs of and a statutory employee of the Defendants, National Distributors Leasing, Inc. and/or Evilsizor Transportation

Services, L.L.C.. Zaira Coronel received injuries as a result of the collision.

The evidence will show that the collision in question, and Plaintiff's resulting injuries and damages, was proximately caused by the negligence of the Defendant,

John W. Kirk, Jr., in some one or more of the following respects:

- (1) In failing to maintain a proper lookout as would have been kept by a person exercising ordinary care and prudence under the same or similar circumstances;
- (2) In failing to make proper application of the brakes on his vehicle as would have been made by a person exercising ordinary care and prudence under the same or similar circumstances;
- (3) In operating his vehicle at an unreasonable speed under the circumstances which a person exercising ordinary care and prudence would not have done under the same or similar circumstances;
- (4) In failing to maintain an assured clear distance as would have been done by a person exercising ordinary care and prudence under the same or similar circumstances;
- (5) In failing to stop at the stop or slow or turn his vehicle as would have been done by a person exercising ordinary care and prudence under the same or similar circumstances to avoid a collision;
- (6) In failing to maintain control of his vehicle as would have been done by a person exercising ordinary care and prudence under the same or similar circumstances;
- (7) Defendant was distracted from and therefore inattentive to his driving

duties at the time and on the occasion in question; and,

- (8) Defendant violated applicable provisions of the Federal and State Motor Carrier Safety Regulations (constituting negligence per se).

It is thought that Defendants, National Distributors Leasing, Inc. and/or Evilsizor Transportation Services, L.L.C., were guilty of negligent entrustment and/or negligent in providing the means for John W. Kirk, Jr. to be entrusted and/or provided the motor vehicle in question to an incompetent, unsafe or reckless driver and violated applicable provisions of the Federal and State Motor Carrier Safety Regulations (constituting negligence per se), such negligence being a proximate cause of the collision and of the injuries and damages suffered by Plaintiff.

Each of the foregoing acts of negligence and negligence per se as the evidence will reveal in this case, singularly or in combination, on the part of the Defendant, and such other acts of commission and omission as may be shown at the trial of this case, were a proximate cause of the collision in question and of Plaintiff's resulting injuries and damages.

Discovery is at its infancy in this case and may reveal other or different evidence yet unknown by Plaintiff. Plaintiff, therefore, reserves the right to amend or supplement these allegations as the evidence warrants.

V.

As a direct and proximate result of the negligence of the Defendants referenced above, your Plaintiff, Zaira Coronel, sustained the following damages in the past and, in reasonable probability, will continue to sustain these damages in the future: physical pain, mental anguish, physical impairment, loss of earning capacity and reasonable and

necessary medical expenses. Plaintiff sues for these damages in an amount in excess of the minimum jurisdictional limits of the Court, between \$200,000 and \$1,000,000.

VI.

The Plaintiff also sues for pre-judgment and post-judgment interest on the items of damages allowed by law.


VII.

Plaintiff demands a trial by jury on this case.

WHEREFORE PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited in terms of law and that upon final hearing Plaintiff have of, from and against Defendants, jointly and severally, for her damages an amount in excess of the minimum jurisdictional limits of this Court, for pre-judgment and post-judgment interest, costs of court and for such other and further relief, general and special, in law and in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,
THE LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511
Tel: (281)331-5757
Fax: (281)331-1105

BY:


GENE S. HAGOOD
\$BOT # 08698400
Attorneys for Plaintiff



TELEPHONE NO. (956) 523-4954
FAX NO. (956) 523-5074

Oscar J. Hale, Jr.

State District Judge
406TH Judicial District Court
1110 Victoria St., Suite 402
Laredo, Texas 78040
406@webbcountvtx.gov

November 19, 2013

CAUSE NO.: 2013CVT001907 D4

STYLE: ZAIRA CORONELE

VS

JOHN W. KIRK, JR.; ET AL

Please take NOTICE that this case is set for **CALENDAR CALL** on 02/04/2014
at 2:00 PM at the 406th District Court, 4th Floor, Webb County Justice Center.

All Calendar Call hearings will be in open court and on the record before the Honorable Judge Oscar J. Hale, Jr. Your presence is MANDATORY unless Counsel for Plaintiff(s) and Defendant(s) file a Joint Pre-Trial Guideline Order (PTGO) with all counsel signatures on the PTGO.

You may download the PTGO at our website: www.Webbcountytx.gov/DC406th/Forms

Counsel for Plaintiff(s) please note that if you fail to appear your case may be dismissed for lack of prosecution.

- Counsel for Defendant(s) please note that if you fail to appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

If there are any questions regarding this matter please feel free to call our office at any time.

A handwritten signature in black ink, appearing to read "Cruz Maldonado".

Cruz Maldonado
Civil Court Coordinator



DC Handwritten initials in black ink, possibly "JW" or "JK".

DEC 04 2013

SERVE

2013CVT001907 D4

CITATION

DELIVERED THIS DAY OF 20

CARLOS B. LOPEZ

CONSTABLE, PCT 5, TRAVIS COUNTY, TEXAS

BY:

DEPUTY

THE STATE OF TEXAS

COUNTY OF WEBB

NOTICE TO THE DEFENDANT: "YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU."

TO: NATIONAL DISTRIBUTORS LEASING, INC.
1517 AVCO BOULEVARD
SELLERSBURG, IN 47172

BY SERVING THE TEXAS SECRETARY OF STATE
STATUTORY DOCUMENTS SECTION CITATION UNIT
1019 BRAZOS STREET, ROOM 220
AUSTIN, TEXAS 78701

DEFENDANT, IN THE HEREINAFTER STYLED AND NUMBERED CAUSE, YOU ARE HEREBY COMMANDED TO APPEAR BEFORE THE 406TH DISTRICT COURT of Webb County, Texas, to be held at the said courthouse of said county in the city of Laredo, Webb County, Texas, by filing a written answer to the Petition of Plaintiff at or before 10:00 O'CLOCK A.M. of the Monday next after the expiration of 20 days after the date of service thereof, a copy of which accompanies this citation, in the Cause #: 2013CVT001907 D4, styled:

ZAIRA CORONELE, PLAINTIFF

VS.

JOHN W. KIRK, JR.; NATIONAL DISTRIBUTORS LEASING, INC.; AND
EVILSIZOR TRANSPORTATION SERVICES, L.L.C., DEFENDANT

Said Plaintiff's petition was filed on 11/14/2013 in said court by:

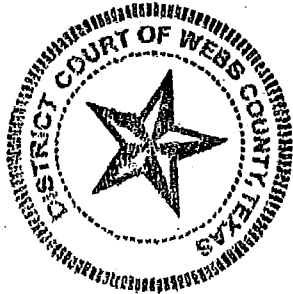
GENE S. HAGOOD, ATTORNEY FOR PLAINTIFF

1520 E HIGHWAY 6

ALVIN, TX 77511

WITNESS ESTHER DEGOLLADO, DISTRICT CLERK OF WEBB COUNTY, TEXAS, Issued and given under my hand and seal of said court at office, this 19 day of November, 2013.

C L E R K O F C O U R T



ESTHER DEGOLLADO
WEBB COUNTY DISTRICT
P.O. BOX 667
LAREDO, TX 78042

RECEIVED
13 DEC -4 PM 3:43
SECRETARY OF STATE
AUSTIN, TEXAS

234697

BY:

GLORIA G. NORTEGA

DEPUTY

EXHIBIT

C

2013CVT001907 D4

OFFICER'S RETURN

Came to hand on the _____ day of _____, 2013 at
 _____ O'CLOCK _____ M. Executed at _____,
 within the COUNTY of _____ at _____ O'CLOCK _____ M. on
 the _____ day of _____, 2013, by delivering to the within
 named NATIONAL DISTRIBUTORS LEASING, INC., each, in person, a true
 copy of this citation together with the accompanying copy of the
 petition, having first attached such copy of such petition to such
 copy of citation and endorsed on such copy of citation the date of
 delivery.

The distance actually traveled by me in serving such process was
 _____ miles, and my fees are as follows:

Total Fee for serving this citation \$ _____.

To certify which, witness my hand officially.

Carlos B. Lopez
 Constable Pct. 5, Travis County, Texas
 SHERIFF, CONSTABLE



_____ COUNTY, TEXAS

BY _____
 DEPUTY

THE STATE OF TEXAS)
 COUNTY OF WEBB)

Before me, the undersigned authority, on this day personally
 appeared _____, who after being duly sworn,
 upon oath said that a notice, of which the above is a true copy, was
 by him/her delivered to _____
 on the _____ day of _____.

SWORN TO AND SUBSCRIBED BEFORE ME on the _____ day of _____,
 _____, to certify which witness my hand and seal of office.

 NOTARY PUBLIC
 MY COMMISSION EXPIRES _____

The State of Texas



Service of Process
P.O. Box 12079
Austin, Texas 78711-2079

Phone: 512-463-5560
Fax: 512-463-0873
TTY (800) 735-2989
www.sos.state.tx.us

Secretary of State

December 9, 2013

NATIONAL DISTRIBUTORS LEASING, INC.
1517 AVACO BOULEVARD
SELELRSBURG, IN 47172

2014-234697-1

Include reference number in
all correspondence

RE: ZAIRA CORONELE VS. JOHN W. KIRK, JR.; NATIONAL DISTRIBUTORS
LEASING, INC.; AND EVILISIZOR TRANSPORATION SERVICES, L.L.C.
406th District Court of Webb County, Texas
Cause No: 2013CVT001907D4

Dear Sir/Madam,

Pursuant to the Laws of Texas, we forward herewith by CERTIFIED MAIL, return receipt requested, a copy of process received by the Secretary of State of the State of Texas on December 4, 2013.

CERTIFIED MAIL #71901046470100260954

Refer correspondence to:

Gene S. Hagood
Gene S Hagood Attorney At Law
1520 E. Highway 6
Alvin, TX 77511

Sincerely,

Helen Lupercio

Helen Lupercio
Team Leader, Service of Process
CT/mo
Enclosure

ESTHER DECOLLADO
CLERK OF THE DIST. COURTS
COUNTY OF SAN ANTONIO, AT LAW

2013 DEC 20 PM 12:07

FILED
SAN ANTONIO COUNTY, TEXAS

DEPUTY

[illegible]

IN THE DISTRICT COURT

WEBB COUNTY TEXAS

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406TH JUDICIAL DISTRICT

A white rectangular label with a black border. The word "EXHIBIT" is printed in bold, black, sans-serif capital letters at the top. Below it, the letter "D" is printed in a large, bold, black, serif font. A horizontal black line is drawn below the letter "D". On the left side of the label, the word "tabbies" is printed vertically in a small, black, sans-serif font.

**II.
JURY DEMAND**

Defendant demands a jury trial.

**III.
RULE 193.7 NOTICE**

Defendant intends to use those documents produced by all parties during discovery upon the trial of this case and hereby provides all parties notice of that intent.

**IV.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by virtue of her claims. Defendant also prays for such other and further relief, both general and special, at law or in equity, to which it may be justly entitled.

Respectfully submitted,

**SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, P.C.**

By: _____

John W. Greene
State Bar No. 08391520
Emily A. Quillen
State Bar No. 24045624

801 Cherry Street, Suite 1075
Fort Worth, Texas 76102
Tel: (817) 869-1700
Fax: (817) 878-9472

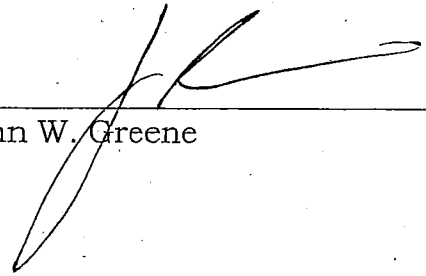
ATTORNEYS FOR DEFENDANTS JOHN W.
KIRK, JR. and NATIONAL DISTRIBUTORS
LEASING, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing *Original Answer of Defendant National Distributors Leasing, Inc.* has been served upon all counsel of record as indicated below on this **19th** day of **December, 2013**.

____ Fax - 281.331.1105
____ Certified Mail, RRR
____ X Regular First-Class Mail
____ Hand Delivery

Gene S. Hagood
The Law Offices of Gene S. Hagood
1520 E. Highway 6
Alvin, TX 77511



John W. Greene

4832-4677-1991, v. 1

[illegible]406TH JUDICIAL DISTRICT

ESTHER DECOLLAO
CLERK OF THE DIST. COURTS
JUDICIAL DEPT. AT LAW

FILED
DISTRICT COURT, TEXAS

DEPUTY

CT COURT

DEC 20 PM 12:07

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**SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, P.C.**

By: _____

John W. Greene
State Bar No. 08391520
Emily A. Quillen
State Bar No. 24045624

801 Cherry Street, Suite 1075
Fort Worth, Texas 76102
Tel: (817) 869-1700
Fax: (817) 878-9472

ATTORNEYS FOR DEFENDANTS JOHN W.
KIRK, JR. and NATIONAL DISTRIBUTORS
LEASING, INC.

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_____	Fax - 281.331.1105	Gene S. Hagood
_____	Certified Mail, RRR	The Law Offices of Gene S. Hagood
<u> X </u>	Regular First-Class Mail	1520 E. Highway 6
_____	Hand Delivery	Alvin, TX 77511

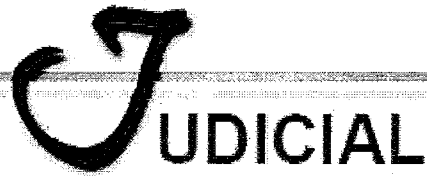
John W. Greene

4812-4667-8807, v. 1

RECEIVED

DEC 23 2013

MAILED 2013 DEC 23
FBI - ALVIN



As of 1/2/2014 11:10:27 AM

Case # 2013CVT001907 D4**Zaira Coronele vs. John W Kirk, National Distributors Leasing Inc, Evilsizor Transportation Services Llc**

Type: Injury Or Damage
Date Filed: 11/14/2013 12:00:00 AM
Court: 406th District Court
Complaint: Injury Or Damage

Party Information

Name	Affiliation
Zaira Coronele	Plaintiff
John W Kirk	Defendant
National Distributors Leasing Inc	Defendant
Evilsizor Transportation Services Llc	Defendant

Attorney Information

Name	Affiliation
John W Greene	Attorney for Defendant
John W Greene	Attorney for Defendant
Gene S Hagood	Attorney for Plaintiff

Court Dates

Date	Description	Status
2/4/2014 2:00:00 PM	Calendar Call	Open

Activity

Date	Type	Description
12/20/2013 12:07:59 PM	Answer	*IMG* ORIGINAL ANSWER OF DEFENDANT JOHN W. KIRK, JR. (FILED BY ATTY JOHN W. GREENE). JB
12/20/2013 12:07:15 PM	Answer	*IMG* ORIGINAL ANSWER OF DEFENDANT NATIONAL DISTRIBUTORS LEASING, INC. (FILED BY ATTY JOHN W. GREENE). JB
12/10/2013 9:53:20 AM	Filing Papers	*IMG* TELEFAX TRANSMITTAL SHEET (COPY OF LETTER ADDRESS TO SAID COURT) FAXED BY COURT COORDINATOR TO ATTY GENE S. HAGOOD JLA

EXHIBIT**F**

tables

Activity		
Date	Type	Description
12/10/2013 9:53:10 AM	Filing Papers	*IMG* LETTER FROM ANDREA ROYSTON TO OFFICER OF THE COURT JLA
11/19/2013 10:11:06 AM	Issuance	*IMG* 6 CITATIONS ISSUED AS TO JOHN W. KIRK JR. AND NATIONAL DISTRIBUTORS LEASING, INC. BY TEXAS TRANSPORTATION COMMISSION AND TEXAS SECRETARY OF STATE AND MAILED BACK TO ATTORNEY IN SELF ADDRESSED STAMPED ENVELOPE. (GG) 2 CITATIONS ISSUED AS TO EVILSIZOR TRANSPORTATION SERVICES, L.L.C. AND SENT BACK IN SELF ADDRESSED STAMPED ENVELOPE. (GG)
11/19/2013 10:00:58 AM	Notes	FAXED CALENDAR CALL TO ATTORNEY GENE S. HAGOOD. (GG)
11/19/2013 10:00:56 AM	Court Case Assignment	Court date/time: 2/04/2014 14:00 Hearing Type: 17 Clnr Call Assignment of court date/time. Status entered as Open
11/14/2013 4:29:14 PM	Case Status	Case Status entered as ACTV. Case Status ACTV: Active For JOHN W KIRK
11/14/2013 4:29:14 PM	Complaint	*IMG* INJURY OR DAMAGE

For more information, please contact the Webb County District Clerks (956-523-4268) or County Clerks (956-523-4266) office.



List of Counsel of Record

Counsel for Plaintiff

Gene S. Hagood, Bar No. 08698400
The Law Offices of Gene S. Hagood
1520 E. Highway 6
Alvin, TX 77511
Tel: (281) 331-5757
Fax: (281) 331-1105

**Counsel for Defendants John W. Kirk, Jr.
and National Distributors Leasing, Inc.**

John W. Greene, Bar No. 08391520
Emily A. Quillen, Bar No. 24045624
Scopelitis, Garvin, Light, Hanson & Feary, P.C.
801 Cherry Street, Suite 1075
Fort Worth, Texas 76102
Tel: (817) 869-1700
Fax: (817) 878-9472

Counsel for Defendant Evilsizor Transportation Services, L.L.C.

Unknown at this time – no appearance filed in state court proceeding

